

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

3:08MD1932-MU

**IN RE FAMILY DOLLAR FLSA
LITIGATION**

*Concerning Grace v. Family Dollar Stores,
Inc. (3:06-cv-306) and Ward v. Family
Dollar Stores, Inc. (3:06-cv-441).*

ORDER

This matter is before the Court on Defendants' May 7, 2009 letter to the Court describing a discovery dispute. Upon receipt of such letter, the Court instructed Plaintiffs to file a letter in response by noon on May 8, 2009.¹ Plaintiffs complied with this Court's directive and filed a letter in response to Defendants' letter.

On May 4, 2009, Defendants filed a Motion to Dismiss twenty-nine Plaintiffs and Intervenor for failure to comply with the Court's Scheduling Order and subsequent discovery Order (Doc. No. 124).² Plaintiffs' response to Defendants' motion is due on May 21, 2009. However, seven³ of the twenty-nine Plaintiffs and Intervenor subject to the Motion to Dismiss are scheduled to be deposed

¹ The parties are on notice that when the Court imposes a deadline for a filing in this Court, the undersigned expects that such deadline is consistent with the time zone within which this Court is situated, which is Eastern Standard Time.

² The Court will rule on that motion after it has been fully briefed.

³ Dorothy Hudson-Meadows; Mark Clark; Nancy Smith; Howard David Farmer; Sharon Bell; Doris Ness; and John Gertken.

in Charlotte the week of May 18, 2009. Defendants object to proceeding with those seven depositions due to the fact that Plaintiff has failed to provide full discovery prior to the original deadline as outlined in the Scheduling Order and the subsequent Court imposed deadline as stated in the Court's previous discovery Order (Doc. No. 117.) According to Plaintiffs' response to Defendants' letter, it appears that Plaintiffs may now have served all of the outstanding discovery at issue, albeit late. The Court finds that Plaintiffs' position that Defendants must proceed with the previously scheduled depositions despite Plaintiffs' inability to timely respond to discovery deadlines to be lacking in civility and spiteful. Plaintiffs' counsel are cautioned that the Court will not tolerate continued piecemeal discovery and flagrant disregard for the deadlines imposed by this Court.

The Court has considered the issues raised in Defendants' May 7, 2009 letter and Plaintiffs' May 8, 2009 response and orders that Defendants may chose to reschedule the seven depositions to the extent that they need additional time to adequately prepare given the piecemeal and late receipt of the discovery at issue, however Defendants are encouraged to proceed with the scheduled depositions to the extent that they have the resources and time to do so.

IT IS, THEREFORE ORDERED that: in light of Plaintiffs failure to provide timely discovery, Defendants may chose to reschedule the seven Charlotte depositions, however, the Court encourages Defendants to proceed, as scheduled, with the depositions to the extent they have the time and resources to do so.

SO ORDERED.

Signed: May 12, 2009

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

